IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

-

WRIT PETITION No.4231 OF 2006

Between:

Sri D.Maheswara, S/o.Sri D.Siddaiah,

Aged about 29 years, Kondavandlapalli B.O.,

A/w.B.T.Palli, Cuddapah Postal Division,

Cuddapah.

..... PETITIONER

AND

The Superintendent of Post Offices,

Cuddapah Division, Cuddapah and another.

....RESPONDENTS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

M.VENKATESWARA REDDY

WRIT PETITION No.4231 OF 2006

O R D E R

(Per Sri Justice J.Chelameswar)

The unsuccessful applicant in O.A.No.225 of 2005 on the file of Central Administrative Tribunal, Hyderabad Bench, Hyderabad, filed the present writ petition aggrieved by an order of dismissal of the said O.A. dated 13.09.2005.

The petitioner was initially appointed as a Extra Departmental Branch Post Master on 01.07.1996 pursuant to the notification issued by the respondents for the said post. The appointment of the petitioner was challenged by one of the applicants who admittedly was found more meritorious than the petitioner in the selection process conducted for the purpose of such appointment, but he was denied appointment on the ground that he was not a resident of the village concerned for the particular post to which the petitioner was appointed. The Tribunal upheld the above-mentioned challenge, which was confirmed by this Court in a subsequent writ petition filed by the petitioner herein. Subsequently, the petitioner was disengaged and the above-mentioned successful opponent of the petitioner was appointed.

Thereafter, the petitioner made a representation to the respondents praying that his case can be considered in accordance with the instructions issued by the Director General, P & T in letter No.

43-4/77-Pen. Dated 18th May, 1979 and other connected instructions issued by the D.G., P & T. The said representation was rejected, and therefore, he approached the Tribunal unsuccessfully in the second round of litigation vide O.A.No.225 of 2005. Hence, the present writ petition.

Sri Ch.Ravinder, learned counsel for the petitioner relied upon para 2 of the above referred instructions of the D.G., P & T, which reads as follows:

> "Efforts should be made to give alternative employment to ED agents who are appointed previously and subsequently discharged from service due to administrative reasons, if at that time of discharge they had put in not less than three years service. In such cases their names should be included in the waiting list of ED agents discharged from service, prescribed in DG., P & T., Letter No.43-4/77-Pen.,

dated 23-2-1979."

A reading on the above instructions clearly point out that extra-departmental agents such as the petitioner, who were at earlier some point of time discharged from service due to administrative reasons after putting in three years of service, should be considered for alternative employment in accordance with the seniority as per the waiting list to be maintained for the purpose.

The language of the above instructions of the Director General, in our view, implies that the Extra Departmental Agents who were discharged from service on administrative grounds and whose appointment were in conformity with law, have to be included in the waiting list of E.D. Agents. In the instant case, the initial appointment of the petitioner was found to be illegal and though there may not be any mistake on the part of the petitioner, the fact remains that the appointing authorities did not apply the correct legal principles in making the appointment. Therefore, the case of the petitioner, in our view, is not covered by the above referred instructions of the Director General. We do not see any reason to interfere with the conclusions reached by the Tribunal.

The writ petition is therefore dismissed at the stage of admission itself. There shall be no order as to costs.

JUSTICE J.CHELAMESWAR

JUSTICE M.VENKATESWARA REDDY

6TH MARCH, 2006

PGS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

M.VENKATESWARA REDDY

WRIT PETITION No.4231 OF 2006

(Per Sri Justice J.Chelameswar)

6th MARCH, 2006